

STATE 9-1-1 COMMITTEE
Legislative Action Subcommittee
May 31, 2012
MSP-HQ
Meeting Minutes

A. Roll Call

The meeting was called to order by Chairperson Shawn Sible. Before roll call, Ms. Anne Zerbe, an intern with the Governor's office and a guest at the meeting, was introduced to the subcommittee.

Mr. Sible amended the agenda. Under New Business, he added two items; a discussion of CLEAR NG911 and funding options.

Roll call was taken.

Voting Members Present:

Mr. Shawn Sible (Chair)
Ms. Pat Anderson
Ms. Marsha Bianconi
Ms. Patricia Coates
Ms. Yvette Collins
Mr. Bob Currier
Mr. Lloyd Fayling
Mr. James Fyvie
Ms. Jennifer Greenburg
Sheriff Dale Gribler
Mr. Steve Leese
Mr. James Loeper
Mr. David Piasecki
Mr. David Vehslage
Mr. Tim Smith
Mr. Robert Bradley

Representing:

Michigan State Police
AT&T
Conference of Western Wayne
CLEMIS
AT&T
Intrado
Genesee County 9-1-1 Authority
Clinton County Central Dispatch
Telecommunications Association of Michigan
Van Buren County Sheriff's Department
Eaton County Central Dispatch
Gogebic 9-1-1
AT&T
Verizon
Michigan Communications Directors Association
CCE

Non-Voting Members Present:

Ms. Harriet Miller-Brown
Ms. Mandy Smith

Michigan State Police
Michigan State Police

Absent:

Mr. Dale Berry
Mr. Jon Campbell
Mr. John Hunt
Ms. Pam Matelski
Mr. Jeff Troyer

Huron Valley Ambulance
Michigan Association of Counties
Telecommunications Systems
Michigan State Police
Appointee, Speaker of the House of Representatives

B. Meeting Minutes Approval

Ms. Collins made an amendment to the minutes of March 15. On the last page under "Members' proposed suggestions for changes," she asked to have "...and the possibility of inserting enforcement language on the current bill" removed. The sentence should now read, "Ms. Collins discussed previously suggested conversations of a complaint being filed with the MPSC."

The second change is on the same page, next paragraph down, changing "conscience" to "consensus."

A **MOTION** was made by Mr. James Loeper to approve the meeting minutes of March 15, 2012, with the modifications. Supported by Ms. Patricia Coates, the **MOTION** carried.

C. Old Business

1. HB 5468

Mr. Sible stated this bill primarily deals with wireless prepaid, the sunset extension, and giving rule making authority to Treasury. Sgt. Dwayne Gill, with the Michigan State Police and legislative liaison in the office of the Director, gave a review of the bill. He stated Treasury and the Michigan State Police would like to have an enforcement provision within this bill to ensure the service providers are remitting the correct amount of money back to the state. Sergeant Gill has worked with Treasury over the past couple of months and developed language, which he handed out to the subcommittee. He has offered it as an amendment to HB5468, which has already been reported at the House and is currently over at the Senate to be referred to the Senate Energy and Technology committee. He is unsure when it will be on the agenda.

Ms. Bianconi commented there is a provision in the bill (page 11, line 14) which states any county that levies a local surcharge, by resolution, has a cap at 42 cents until the sunset date and she was wondering why that was included. If the sunset date was extended to 2021, there should be some ability to increase the funds if needed. Sergeant Gill stated that is existing language which has never changed. Sheriff Gribler stated the intent was to have the ability to raise the amount up to \$3 by going to a vote of the public. Ms. Miller-Brown stated anything over the 42 cents needs to go to ballot proposal.

Mr. Sible asked if it would make more sense to leave the concept, but instead of having a dollar amount, have a percentage. Ms. Miller-Brown stated that when a percentage was developed under PA 29 it was an arbitrary percentage and asked what the percentage would be based on. She also stated the current dollar amount is low enough to supplement counties getting money through general funds and other funding sources, but high enough to be more of a fee-based issue. Sgt. Gill stated he would take the concerns to the bill sponsor. Mr. Sible stated 2021 is an extremely long period of time to be locked into the rates. The bill will be opened again in the timeframe and what CLEAR is doing may have some impact on a funding perspective.

Mr. Sible asked for members of the subcommittee to work on language to address issues raised and he would work with Sergeant Gill and the bill sponsor. Ms. Greenburg stated she would not feel comfortable with language being created for the amendment by only a few individuals and not coming from the LAS. Instead, individuals should lobby on their own. Mr. Sible stated in the past if you had discussion at a meeting and indicated you would do a vote by e-mail later that was considered acceptable, but has since been ruled unacceptable under the Open Meetings Act. This subcommittee would have to meet in the next couple of weeks to vote on any proposed language due to time constraints.

It was concluded the issue of having a dollar amount is a valid issue, but due to the time constraints, nothing can be done at this time through this subcommittee.

Other discussion included page 18, line 17, under "the department shall promulgate rules" and on page 19, line 14, "the department means the Michigan Department of Treasury." A question was asked if the rulemaking language takes the rulemaking that currently exists away from MPSC and moves it entirely to Treasury, which was answered yes. It was also asked if Treasury would be the state agency charged with all 911 rulemaking or just the prepaid section since the language states "this Act," which would mean the entire document, not just the prepaid portion. Ms. Miller-Brown stated the language should read "this section" rather than "this Act." Mr. Sible stated that general consensus would prefer the language be changed to reflect that if Treasury has rulemaking, it should only be for the enforcement of this section as opposed to enforcement of the entire Act. He stated the subcommittee will work with the bill sponsor to make them aware of this change.

2. Enforcement Provisions

Mr. Loeper, who was teleconferenced in and could not review the draft amendment language handed out by Sergeant Gill, asked for a summary.

Ms. Miller-Brown stated the amendments allow the SNC, the Attorney General, the Auditor General, or Treasury to ask a provider what their line count is. When asked, she stated the definition of service provider is, under the statute, anyone who provides 9-1-1 in the state of Michigan; for example, Vonage, Verizon, Frontier, etc. Questions were asked where the fines go, into general funds or back into 9-1-1, and if this amendment only pertains to the state or if the counties have a piece of the law to refer to if they feel they are not receiving number counts from the companies. Mr. Sible stated, as the proposal is written, it does not provide the county authority. In past discussions with Ms. Miller-Brown, he recommends similar language for county action.

Ms. Greenburg asked if the subcommittee does not agree with this bill, will MSP still move forward? Mr. Sible stated that MSP, as a result of the OAG audit, will pursue some sort of enforcement capabilities; however, he is willing to make sure whatever is pursued takes into account everyone's concerns. An OAG audit finding stated MSP has to seek language that provides enforcement capabilities.

Questions arose regarding the audit and what about the audit indicated this language was needed and why necessary. Mr. Piasecki stated he did not see anything in the audit finding requiring this language. His interpretation of one of the findings was that Treasury was only doing a moderately good job of ensuring that providers submitted the correct amount of surcharge, with the OAG finding two major problems, point of sale legislation for prepaid and finding providers who are not paying Treasury. Ms. Miller-Brown explained the office's attempts to follow up on information and remittances by the providers.

Mr. Piasecki stated he believes the issue of non-payment is prepaid providers. Mr. Sible stated there are some issues with landline as well. Mr. Currier suggested it may not be traditional landline providers, but those providing landline equivalent services.

Ms. Greenburg raised a question regarding an item from previous meetings where the subcommittee has asked to go through the channels that are currently in the 9-1-1 Act for enforcement purposes, which was not acted upon, and if anything has been done to further utilize MPSC procedures currently in the Act today. Mr. Sible stated those efforts have been underway and are making sure everything is in order. Ms. Miller-Brown gave an update stating the case should be filed in the next couple of weeks. Mr. Hal Martin and Ms. Lori Howard have done a lot of work recently to include the current quarter's information.

Mr. Sible asked Ms. Miller-Brown for an update on the types of inquiries made where there is no ability to get information. Ms. Miller-Brown gave a few examples. Her office had one provider who contracted with another provider to do their billing for the surcharge, but did not notify the State 911 Office who they were remitting for. Currently, Treasury receives the money, creates a receipt and enters it into a database, where the State 9-1-1 Office looks for discrepancies. Mr. Piasecki stated the State 9-1-1 Office should take the action that the current law gives authority to do. First contact the provider and give them the chance to explain, and if they cannot be contacted, file a complaint with the MPSC. It is the MPSCs responsibility to follow-up. Mr. Sible stated there is no authority for the SNC to get information without going through a traditional, multi-year process with the Commission.

Ms. Coates stated her issues with the language in the draft document under (3) (a) "...shall make the records of the service users available." It does not state line counts; it is too broad, implying all records must be available on demand. Mr. Sible explained this was new language; Ms. Miller-Brown and himself had not seen the draft before today. He stated the proper level of request for information that is necessary to do a job is language that needs to be thought of and created, and that just any agency should not have authority to have access to a provider's files, which is how the current language of this paragraph is interpreted.

Ms. Collins asked what Sergeant Gill is giving to the bill sponsor. There will be opposition if submitted as it currently reads and if the representation is that it came from this subcommittee, there will be issues. Mr. Sible stated no language given to Sergeant Gill has been agreed upon by

this subcommittee; the document is a draft in discussion. From the agency perspective, it is moving in that general direction due to the audit recommendations. He would like to create language that everyone can agree on and finds acceptable.

Mr. Sible stated the auditors believe the authority is there and they do not understand why it is not acted upon. He also said that if there is an authority, there would be a clear case to take; however, providers say we have no authority to even ask for their information and they do not need to respond to the inquiries. Mr. Sible also stated if there is a belief among the group that the only ones who should have that authority is the Commission, he will entertain ideas for language which says the state police do not have authority to seek this information. One must get it through the Commission to then show the auditor. There was concern of relying on the Commission to ensure receipt of what is due.

There was further discussion on the roles of rulemaking and where enforcement provisions and the ability to query line and subscriber counts should be (MSP, Treasury?). Mr. Currier stated that other states who have struggled with this same issue, once they have gotten past the hurdle of everyone being comfortable with point of sale, have resolved the majority of the funding shortfalls for wireless. Mr. Sible stated that if the subcommittee entertains rulemaking on the wireless side targeting retailers, requiring them to submit information, rulemaking should be supported to ask similar questions on the landline side.

Mr. Sible stated he believes there is a common ground of agreement. He will let Sergeant Gill know that at this time MSP does not support the draft amendment and would face opposition from members of the industry, but that a consensus solution will be worked on. The bill will open again at a later date with an opportunity to make clarifications at that time. Mr. Sible asked the subcommittee members who represent the industry if they would be willing to walk through every type of basic provider and say what information they report to what bodies (FCC, MPSC, etc.).

Assuming the draft amendment is not part of the proposed bill, with the one change discussed regarding providing rulemaking authority only for the section as opposed to the entire Act, Mr. Sible asked for a motion to recommend to the SNC formal support of the bill, with the one change under Section 401c subsection (9). A **MOTION** was made by Mr. Tim Smith. Supported by Mr. David Vehslage, the **MOTION** carried.

D. New Business

1. HB 5561

Mr. Sible and Ms. Miller-Brown previously met with Rep. LeBlanc, who created the bill as a result of the OAG audit. Pointing out a couple areas, Mr. Sible stated 406 (1) requires a local audit of both state and local share of funds. On 406 (2), it includes audits of secondary PSAPs who may not even receive funding. Mr. Sible stated Rep. LeBlanc is willing to have open discussion for the subcommittee to make recommendations.

Mr. Fayling asked for clarification regarding the type of audit required when they are currently getting audited every year. Mr. Sible stated not everyone is its own independent authority and has a separate, distinct audit. They were unable to show evidence that single audits sampled expenditures directly related to 9-1-1.

Mr. Sible would like to recommend to Rep. LeBlanc that he is working with the OAG to find what they believe meets the criteria set forth in their audit finding. He believes Rep. LeBlanc saw something the OAG thought was lacking and attempted to rectify the situation, but it may need to be clarified before it can be rectified. No opposition from the subcommittee came from Mr. Sible's recommendation.

2. CLEAR NG911

Mr. Sible asked Ms. Miller-Brown, without violating any non-disclosure information, for an update on the work group. Ms. Miller-Brown stated the objective of the work group is to develop a project plan

on how to get Michigan to NG911. First, the group is trying to reach a consensus on defining where it is going and what is needed to get there.

Mr. Sible stated discussions on NG911 should probably be tabled due to the work the CLEAR group is doing. However, NG911 and GIS are often linked together and there is an active project in place for GIS that should still move forward.

It was asked if CLEAR is using any information received from Kimball, which the answer was yes. It was also asked who comprises the core work group. Ms. Miller-Brown listed the members: Mr. Tim Smith, Mr. Bob Bradley, Ms. Pat Coates, Chief Deputy Michelle Young, Ms. Lisa Hall, Mr. Jeff Barnes, Mr. Eric Swanson, Mr. Brad Stoddard, Ms. Pam Matelski, Sheriff Gary Rosema, Chief Jim Dunlap, Sheriff Dale Gribler, Col. Kriste Kibbey Etue, and Mr. Rich Miller.

3. Funding

Funding was added as an agenda item at the start of the meeting, but will be tabled until next time.

E. Public Comment

None

F. Next Meeting

TBD

G. Adjourn

Before adjourning, a comment was made thanking Mr. Sible for listening to concerns regarding the amendment and his willingness to go back to the sergeant with their concerns.

The meeting was adjourned.